

Approved: Meeting No. 35-81

ATTEST: *Helen M. Heneghan*

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
MEETING NO. 33-81

September 21, 1981

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chamber, Rockville City Hall, Maryland at Vinson Street, Rockville Maryland, on Monday, September 21, 1981, at 8:00 p.m.

PRESENT

Mayor William E. Hanna, Jr.

Councilman Steve Abrams
(left at 9:00 p.m.)

Councilwoman Phyllis Fordham

Councilman John Freeland

Councilman John Tyner

The Mayor in the Chair.

In attendance: Assistant City Manager Daniel Hobbs; City Attorney Roger Titus; City Clerk Helen Heneghan; Director of Community Development Douglas Horne; Public Information Officer Sue M. Patterson; Director of Planning James M. Davis.

Re: City Manager's Report

Mr. Hobbs reported the following:

1. There will be a community meeting at the Lone Oak Elementary School at 7:30 p.m. on Thursday. It is designed to be an information meeting for the community regarding the proposed school closing. Mrs. Genie McKay had indicated that members of the Mayor and Council are especially invited. Mr. Hobbs pointed out the conflict with the Maryland Municipal League Chapter meeting that evening.
2. City wide refuse collection changes that affected most residents either by changes in day of collection or time of day of collection took place with few questions or complaints from citizens. The changes will result in a 10 percent increase in the number of residences collected per refuse crew member.
3. Three speed humps, along with sign warning devices and lateral striping have been installed on Lewis Avenue.

Councilman Tyner said the speed humps seem to be working very well.

Re: Appointments

Mayor Hanna made the following appointments. They were confirmed by the Council:

Recreation and Park Advisory Board: Don Boebel - two-year reappointment

Alternative Community Service Commission: Robert Burke - one-year reappointment

Cultural Arts Commission: Elizabeth Earley - two-year appointment
243 Rollins Avenue, #202
Rockville, Maryland 20851

Economic Development Commission: Robert Bender - two-year appointment
Chamber of Commerce appointee
966 Hungerford Drive
Rockville, Maryland 20850

Re: Award of Contract: Bid No. 7-82
Trees in right-of-way

Bids were opened in the Conference Room of City Hall at 3:30 p.m., August 27, 1981, for tree replacement on public right-of-way. There were 12 responsive bids as follows:

Potomac Valley Nursery, Gaithersburg, Maryland	\$13,475.00
Stock Nursery, Rockville, Maryland	14,676.00
Aspen Landscape, Silver Spring, Maryland	14,948.00
Davis Nurseries, Harrisburg, Pennsylvania	15,584.45
Arbor Landscape, Silver Spring, Maryland	16,263.10
J. & H. Burton & Sons, Olney, Maryland	16,733.00
Meadowview Farm Nursery, Burtonsville, Maryland	17,444.98
Paramount Landscape Contractors, W. Hyattsville, Maryland	19,824.35
Glenwood Gardens, Glenwood, Maryland	22,608.66
Chapel Valley Landscape, Woodbine, Maryland	23,052.54
Southern Produce & Nursery, Alexandria, Virginia	24,362.28
Homestead Gardens, Davidsonville, Maryland	25,993.85

This contract is to provide 142 trees on public right of way as replacements for those taken down due to disease or other problems, and to continue filling those areas presently vacant of trees. The amount budgeted for FY'82 was 325 at \$120 each for a total of \$39,000; accordingly, 142 trees at \$120 each equals \$17,040 budgeted. The Parks Department will continue its practice of biannual plantings with the remaining 183 budgeted tree replacements to come in the spring of 1982. Staff has visited the low bidder, Potomac Valley Nursery of Gaithersburg, and finds their material meeting the desired specifications.

Staff recommends that Bid No. 7-82 be awarded to Potomac Valley Nursery in the amount of 13,475.00

On motion of Councilman Tyner, duly seconded and unanimously passed, Bid No. 7-82, for trees was awarded to Potomac Valley Nursery, in the amount of \$13,475.00.

Re: Adoption of Ordinance: To authorize public improvement for construction of sidewalk along south side of Maryland Avenue from Fleet Street to a point 40 feet west of Argyle Street. Project No. 001621

Ordinance No. 39-81

Councilwoman Fordham moved, duly seconded and unanimously passed, to amend the ordinance as prepared by the City Attorney changing the assessment clause and due to the unique nature of the sidewalk, providing a principal means for pedestrian access to the Town Center, to have it paid by general obligation funds instead of special assessments.

On motion of Councilman Freeland, duly seconded and unanimously passed, Ordinance No. 39-81, the full text of which can be found in Ordinance Book No. 10 of the Mayor and Council, authorizing public improvement of a sidewalk on Maryland Avenue, was adopted by the Mayor and Council as amended.

Re: Access to Montrose West Annexation Area

This item was placed on the agenda to answer a request from Mr. Robert Furman who has petitioned for the annexation of a piece of property at Seven Locks Road. In instructing the staff and approving the annexation, the Mayor and Council requested that principal access be from Fortune Terrace and a "right turn only" exit be placed on the property opening directly onto Seven Locks Road, north of the intersection. Mr. Furman has told the Council that this solution is unworkable and has asked them to reconsider. The Mayor and Council requested that staff re-examine the request.

After having reviewed the original instructions from the Mayor and Council and the alternative access schemes identified by Furman and the neighborhood, the staff recommends acceptance of the alternative that would provide primary access to the Furman property north of Twin Oaks Drive and the northern boundary of the Potomac Springs subdivision. Monroe Street, under this alternative, would function as a secondary entrance. Staff believes this alternative adequately responds to all issues raised by the neighborhood civic association relative to the berm, buffering, landscaping, and safe-sighting distance to the crest of the hill near the Ritchie Parkway intersection with Seven Locks Road and does not believe the concerns raised by the citizens regarding safety of this intersection are substantiated based on traffic engineering analysis and existing and proposed traffic conditions on Seven Locks Road.

Councilman Tyner moved, duly seconded, that the Mayor and Council approve the staff's recommended alternative north of Twin Oaks Drive and this item be included as part of the negotiations for the attorneys in dealing with the contract of annexation.

Councilman Abrams said that he is a bit puzzled by what has occurred and he asked Mr. Davis, the Director of Planning, to take him through the various steps in this process. Mr. Davis gave a briefing to the Council, going back to the original request, noting the numerous meetings that have been held and the times this has been considered by the Council up to the August 3 decision when the Mayor and Council requested a contract of annexation be prepared with primary access at Fortune Terrace and secondary, onto Seven Locks Road. He then outlined for the Council the numerous meetings that have taken place between the staff, Mr. Furman and the civic association since that time. Councilman Abrams asked Mr. Davis if he was aware of any discussions that have taken place with Mr. Furman and B.F. Saul. Mr. Davis said he was not. Councilman Abrams asked what the staff would do if it were allowed to do anything it wanted. Mr. Davis said ideally, Mr. Furman's property would be reached by traveling across the B.F. Saul property but that is not attainable. Councilman Abrams proceeded to ask in depth questions on all the alternatives that have been posed, specifically, dealing with the Lukas Associates' report on an evaluation of access alternative for Montrose West provided on September 14, 1981. Mr. Davis and Mr. Cutro answered these questions and commented on the merits of the traffic proposal. Councilman Abrams commented that there seems to be a deviation between what the staff wants and what Mr. Lukas wants. Mr. Cutro agreed and said the staff does not necessarily agree with the consultant. Councilman Abrams asked if the Number 3 alternative from Mr. Lukas is consistent with the Council's directions, why did the staff recommend a change. Mr. Davis said there is an ideal situation the staff would prefer, but that does not seem too workable in reality. Councilman Abrams asked, concerning alternative 4, if no annexation were permitted, what are the City's responsibilities. Mr. Davis said Mr. Furman's property, then out of the City, would be less than 5 acres and it would not meet the I-3 requirements. If the property were not annexed, the City would then be providing no service such as water and sewer and the property could not be developed. Councilman Abrams asked if there was a previous plan for Potomac Springs to have a second entrance into Ritchie Parkway. Mr. Davis said not to Ritchie Parkway, but there was a proposed entrance at Locks Pond Court.

Councilman Abrams asked if the staff has looked into the impact for left-turn traffic. Mr. Cutro said they feel there will be none. Councilman Abrams asked about the proposed office development to take place at the intersection of Montrose and Seven Locks Road. Mr. Davis said the City has been protesting this development since it is within the City's maximum expansion limits. Councilman Abrams asked Mr. Cutro what is wrong with alternative 2. Mr. Cutro said from the safety angle it would be difficult for motorists to navigate that close to an intersection. Councilman Abrams asked what would happen if heavy traffic makes it necessary to place a light at Twin Oaks. Mr. Cutro said there could be a problem in later years from the cumulative effect of other developments. Councilman Abrams compared Seven Locks Road to the development of Rockville Pike and said he is concerned with the rapidity of action this evening and he has very serious reservations on the capacity of Seven Locks Road. It is his feeling that the combined effect of two new developments can have serious impact on the future. Mr. Davis said the two proposed housing developments will have access onto Ritchie Parkway and the roads are designed to accommodate that traffic. Councilman Abrams said he wondered what will happen if the roads are delayed. Mr. Cutro said at one time he suggested an escrow account for future traffic lights if it were necessary. Councilman Abrams agreed with this idea and said maybe all developers could get together and contribute to this fund; maybe this can be worked out sometime during the next week. Mr. Cutro said the traffic light is just one small part of the problem. Primary access is the most important. Councilman Abrams said he would like to see this worked on more since given more time it is possible other things could be accomplished. Councilwoman Fordham said that she feels the delay on this particular item has been sufficient. There is not enough time for the Council to talk individually to each developer and the City seems to be reaching a stage where the developer cannot do anything without complete agreement from all the citizens. She feels there has been a lot of input from the citizens on this particular item and the Council has gone over it time and time again. The City is going to the best solution it can possibly find.

Councilman Tyner agreed and said it has been a tough decision for everyone, but he is not about to condone condemnation for private purposes. That being so, the City has been forced to come up with an alternative. Moving this

entrance 300 feet north makes it possibly visible in the winter time by two model homes that are at present unoccupied. So, he does not see how it can have a severe impact on the civic association. He asked that the contractual negotiations agree that all turn lanes come on the east side of the road. Councilman Abrams said his intention all along has been to raise consciousness and cause a dialogue to occur.

Councilman Freeland said the decision has been difficult for all. There will be future development on that corridor and it will be hard to accommodate Potomac Springs with all this. Placing traffic lights on Seven Locks will not work with the short distance to Ritchie Parkway and Fortune Terrace. The City has an obligation to offer alternative entrances to the community. He asked that the Mayor and Council instruct the staff to pursue other access for Potomac Springs, for infive years it will be a problem.

Mayor Hanna said many good points have been raised, but he is convinced this alternative recommended by the staff is best and he plans to vote for it. He said it is unfortunate the B.F. Saul Company would not make access available, but it was certainly within his right to refuse to allow others to cross his private property. Any condemnation proceeding would be thrown out of court for such shallow reasons. He said he feels the staff has done a good job on this.

Councilman Tyner's motion passed, Mayor Hanna and Councilmembers Tyner and Fordham voting ~~aye~~ and Councilman Abrams voting nay and Councilman Freeland abstained.

Re: Citizen's Forum

The Mayor opened the meeting to those citizens who wished to address the Mayor and Council.

There being no citizen wishing to be heard, the Mayor closed the citizen's forum portion of the meeting.

Re: Decision: Use of Bouic House

The Bouic House is presently unoccupied and a re-use for the building needs to be determined. Staff recommends that the building be made available for rent through the federally assisted Section 8 program. Priority can be given to Rockville residents. This recommendation is made because the Mayor and Council at the past housing forum expressed their concern that more should be done to help alleviate the housing shortage for moderate income families in Rockville.

It is recommended that:

- 1) The Bouic House be rented as a Section 8 assisted single family residence.
- 2) Painting and fix-up expenses be recovered from the first year's rent.
- 3) City staff act as the rental agent.

Councilman Freeland moved, to approve the staff's recommendation and rent the property to low and moderate income people. The motion failed for lack of a second.

Councilwoman Fordham moved, duly seconded, that the home be offered temporarily for rent on a non-subsidized basis at full market value handled by a rental agent.

Councilman Freeland said he does not plan to see the City get involved with the federal government. He would like to see the property rented to low and moderate people without the federal subsidy and just let the City accept the difference. There is no reason to make a profit. He considers the property to be a land bank, but does not want to see it left empty and the City does not need space. Councilman Tyner asked what investment would be necessary to bring it up to code. Mr. Hobbs said about \$2,500. Mr. Hobbs answered Councilman Tyner's questions and briefed him on the status of the Free Clinic which will stay where it is or use Woodley Gardens School. Councilman Freeland agreed and said the clinic wants to remain at its present facility. Mayor Hanna said he likes the staff's recommendation since it agrees with the City's stated policy. Councilman Freeland disagreed and said Section 8 only provides the difference in what an individual can afford under fair-market price and it just amounts to manipulation of tax dollars. There is not a necessity of the City making a profit. It should just generate enough to cover costs, but at the same time, it will provide a model to other people. He would like to see the City Manager and the Rockville City Housing Authority select a tenant. Councilwoman Fordham said she agrees if rents are to be subsidized, federal funds should be used. Councilman Freeland said at budget time the Mayor and Council Council discussed the plight of City employees who cannot afford to live in the City. Maybe, the property should be offered, by lottery, to a staff member. Mayor Hanna said he had no problem with that at all.

Councilwoman Fordham's motion to offer the house on a non-subsidized basis at full market value, failed to pass, with Councilmembers Fordham and Tyner voting aye and Mayor Hanna and Councilman Freeland voting nay.

Councilman Freeland moved, duly seconded, that staff be directed to take the Council's comments this evening and come up with a suggestion, possibly two or three specific alternatives that embodied the discussion. Councilman Freeland asked that the staff prepare a runout on costs over five or six years. Councilman Tyner said he would also like to see staff again prepare some facts on the house used as an emergency shelter.

Councilman Freeland's motion passed unanimously.

Re: Approval of testimony regarding
Montgomery County Community
Development Block Grant Program

On September 23, the Montgomery County Citizens Advisory Committee for Community Development Block Grant (CDBG) will be conducting a public hearing for the purpose of receiving CDBG projects for FY 83. Rockville will be presenting testimony. The project proposals were prepared through a meeting with representatives of City departments and then prioritized by the CDBG Citizens Advisory Committee.

On motion of Councilman Tyner, duly seconded and unanimously passed, the testimony was approved.

Councilman Tyner asked that a report be brought back to the Council on repairs to Lincoln Terrace Apartments for handicapped access. He questioned the canopy and he asked that the Halpine Road items be deleted. Council agreed to this.

Re: Selection of Landscape Architect
for Economics of Amenity project.

During the FY 1981 budget work session, staff requested, on behalf of the Economics of Amenities Committee (EOAC), the set-aside of \$25,000 as seed money to permit the Committee to secure the services of a registered landscape architect to develop a streetscape plan for Rockville Pike. This ambitious undertaking is nominally supported by Partners for Livable Places and is in direct response to the City's interest in demonstrating, through private initiative, that amenities, public art, and good design can materially contribute to the financial success and positive image businesses are trying to project.

This seed money was understood to be the equivalent of an advance, with payback to the City once the businesses located along the Pike began to implement the recommendation contained in the approved plan. Both the Mayor and

Council and EOAC recognized at the time that there was some risk. But the City was willing to assume that risk provided the Committee proceeded in haste to develop and sell a plan to the business community.

Staff is pleased to recommend the selection of a landscape architect firm who meets the stringent criteria established by the Committee, and which by virtue of its experience can deliver the desired product.

The program has been divided into three (3) phases as follows:

Phase I Reconnaissance and Concept Design Plan
Phase II Detailed Working Drawings
Phase III Implementation

The preparation of the concept design is considered critical to the Committee because the concept will become the vehicle to solicit the support of the owners of property along the Pike. Without support for Phase I, the subsequent phases may never materialize.

Five (5) landscape architect firms were interviewed, of which three (3) were asked by the Committee to submit detailed cost and scope of service proposals. Each of the three firms were carefully evaluated for responsiveness to the general scope of services, background experience, track record, planning team, and special features indicating understanding of the issues. Cost was considered, but was not the basis upon which the Committee formulated its recommendation. The search is for the most experienced firm to provide the services and political sensitivities demanded of this project if it is to be successful.

The three finalists and their fees for each phase were:

<u>Firm</u>	<u>Phase I</u>	<u>Phase II</u>	<u>Phase III</u>
Coffin and Coffin	\$23,850	\$ 9,500	\$ 2,500
DMW Consultants	15,500	*	*
Land Design/Research	\$20,675	\$ 13,866	\$17,432

* No estimate provided other than percent (%) of future construction and planting costs.

The Committee is not recommending the lowest proposal. Even though DMW costs were lower for Phase I, it was difficult to quantify costs for Phase II and Phase III. The proposal was too open-ended and total costs could end up to be much higher overall if DMW were selected. The proposal submitted by Land Design/Research (LDR) more closely responds to the needs of the Committee and the objective of the program.

There is some risk associated with the initial \$25,000 allocation. However, it is the full intention of the EOAC to make this an innovative, self sustaining

program. It may be that the City will have to "front" much of the cost of implementing this program once the design plan has been approved. The means of recouping the investment can be through "front-foot assessments," special district, tax increment financing, etc. What the Committee hopes to accomplish is for the individual owners to see the value of amenities to their personal investments and actually implement at direct cost Phases II and III.

The Committee recommends a contract with LDR for service at \$20,675 for Phase I with a \$4,325 contingency set aside.

Mr. Lynott, Chairman of the Committee, spoke to the Council on the enthusiasm that has been generated by this proposal, and the Committee's optimistic outlook for its completion.

On motion of Councilman Freeland, duly seconded and unanimously passed, the landscape architect firm of Land Design/Research was approved in the amount of \$20,675 with the \$4,325 contingency set aside.

Re: Correspondence

The Mayor and Council noted the following items of correspondence:

1. R.S. McGarry, WSSC, re water meter
2. Holly Meyer, re air pollution problem
3. M.S. Caltrider, re Veirs Mill Road landscaping
4. Senator Sarbanes, re "Telecommunications Act"
5. D. Theoharis, re license applications
6. J.J. Hessler, re water slide
7. Bob Taylor, re Webelos attendance at Council meeting

Re: Information Items

The Mayor and Council noted the following items of information:

1. Project status report from Public Works Department
Councilman Tyner noted item number 72, Woodburn Storm Water Management, still seems to be pending. He would like to see that taken care of.
2. Memo from Board of Public Works re Woodley School grant
3. Copy of letter from County Executive to DOT re consolidated transportation program
4. Copy of letter to School Board from CIAC
5. Memo re Rockville Housing Authority: Housing Opportunities Commission
6. Memo re Gude/Taft Signal
7. Memo re Tree Ordinance

8. Memo from Chief of Police re Area II Schools meeting

9. Performing Arts Series Tickets

Councilman Tyner asked about these tickets. Mayor Hanna said it would be handled under another item.

10. Acquiring the Right to Use Woodley Gardens School

Councilman Tyner asked if the Mayor would work with the County Executive. Mayor Hanna said he would prefer to see no lease, but rather the City take title to the building. He would like to see it released from the County and asked the staff to pursue this. Councilwoman Fordham suggested that it be brought to the County's attention that the building should not be vacant.

Re: New Business

1. Councilman Freeland said he appreciates the Mayor's recognition of his position last week on the Rockville Municipal Swim Club. He was prepared to bring the issue back for reconsideration this evening, but having talked to the other members of the Council, he would like to pursue an alternative. He said other members of the Council have requested more data and although it is tempting to move for immediate action, he thinks all would be more comfortable with the additional data and more time for careful consideration. He asked that this be placed on the agenda for the October 19 meeting and further instructed the staff to gather the data requested at the last Council meeting plus the historical plot of membership growth since the pool was first opened with an extrapolation of that growth through 1986. The Mayor agreed to this.

2. Councilman Freeland said the staff has been working on the Antique Car Show and individual members of the Chamber of Commerce are supporting it and it could possibly work out to be a joint venture in the future.

3. Councilman Tyner said the Board of Elections of Supervisors has completed the process of examining the Charter and the election ordinance for improvement and have forwarded their changes to the City Attorney's office. They are hoping for a work session with the Mayor and Council this fall.

4. Councilman Tyner pointed out the County Council item 13 on Tuesday's agenda which deals with Cable Television and approval of RFPs. He said this matter will be discussed at the Maryland Municipal League Chapter meeting.

Re: Approval of Minutes

On motion of Councilman Freeland, duly seconded and unanimously passed, the Minutes of Meeting No. 30-81, August 24, 1981, were approved as written.

Re: Executive Session

On motion of Councilman Tyner, duly seconded and unanimously passed, the meeting was closed for executive session for consultation with legal counsel.

Re: General Session

The Mayor and Council Meeting No. 33-81 was reconvened in general session at 10:25 p.m. on Monday, September 21, 1981.

On motion of Councilman Tyner, duly seconded and unanimously passed, the staff was instructed to file a text amendment in the form of recommendations forwarded to the Council by the staff to limit adult entertainment establishments to the I-3 Zone by special exception.

Re: Executive Session

On motion of Councilman Tyner, duly seconded and unanimously passed, the meeting was closed for executive session for discussion with legal counsel.

Re: Adjournment

There being no further business to come before the Council in executive session, the meeting was adjourned at 11:40 p.m. to convene again in general session on Monday, September 28, 1981, at 8:00 p.m. or at the call of the Mayor.